

1 Steele N. Gillaspey, Esq.  
State Bar No. 145935  
2 **GILLASPEY & GILLASPEY**  
The NBC Tower  
3 225 Broadway, Suite 2220  
San Diego, California 92101  
4 Telephone: 619.234.3700  
Attorney for Plaintiff,  
5 **STORZ PERFORMANCE, INC.**

6  
7  
8 **UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**  
9

10 STORZ PERFORMANCE, INC., )  
a California corporation, )

11 )  
Plaintiff, )

12 vs. )

13 MOTO ITALIA, form unknown; )  
LESLIE BULL, an individual; )  
14 CYCLE PERFORMANCE )  
PRODUCTS, INC.; JOHN BASORE, )  
15 an individual, and, DOES 1 to 100, )  
Inclusive, )

16 )  
Defendants. )  
17

Case No. 3:07-CV-02242 W (WMC)

DATE: September 15, 2008

TIME: 10:30 a.m.

PLACE: Hon. Thomas J. Whelan  
Courtroom No. 7

18  
19  
20  
21 **DECLARATION OF**  
**STEELE N. GILLASPEY RE:**  
22 **LODGEMENT OF EXHIBITS 1 TO 5**  
23  
24  
25

26 Honorable Thomas J. Whelan  
United States District Court Judge

27 Honorable William McCurine, Jr.  
28 United States Magistrate Judge

1 I, STEELE N. GILLASPEY, do state and declare as follows:

2 1. I am an attorney admitted to practice before this Honorable Court and I represent  
3 Storz Performance, Inc., the Plaintiff in the above entitled action. I have personal knowledge of the  
4 following, and if called upon to testify, I could and would testify competently thereto.

5 2. Attached hereto as **Exhibit 1** is a true and correct copy of the Certificate of  
6 Trademark Registration No. 1,927,816. **Exhibit 1** is a two page document issued by the U.S. Patent  
7 & Trademark Office for the trademark Ceriani®. Storz Performance, Inc., the Plaintiff herein, is the  
8 identified registrant and owner of the mark. **Exhibit 1** further notes that Storz' use of the Ceriani  
9 trademark in commerce dates back to May 1985.

10 3. Attached hereto as **Exhibit 2A** is a true and correct copy of pages from the Moto  
11 Italia /Cycle Performance active internet website as of October 2007. The website and copies made  
12 therefrom were made by my office in San Diego, California. **Exhibit 2A** is a four (4) page  
13 document, the pages taken from the original as used in the State of California and throughout the  
14 country. The first page of **Exhibit 2A** identifies "*MOTO ITALIA, 1060 Petaluma Blvd. North,*  
15 *Petaluma, CA USA 94952*", and that the website it is a catalogue site. The website address shows  
16 as "Motomacchi". The second page of **Exhibit 2A** contains copyright claims by MOTO ITALIA  
17 as to the site. Page three of **Exhibit 2A** is entitled "Super Sprint". Page three directly references  
18 "JOHN BASORE", the owner of "*CYCLE PERFORMANCE PRODUCTS*". Clicking on "parts Catalog"  
19 on page three of **Exhibit 2A** brings up the items offered for purchase. Pages four, five and six of  
20 **Exhibit 2A** are the catalogue pages. Page five of **Exhibit 2A** lists the sale of a "*CERIANI Fork*" as  
21 Catalogue No. *CPP/2005-30*. It is presumed that the identifier "CPP" stands for "*CYCLE*  
22 *PERFORMANCE PRODUCTS*". Additionally, pages 2. and 6 of **Exhibit 2A** carry the copyright  
23 claims by MOTO ITALIA. **Exhibit 2A** shows solicitation of sale of products under the Storz  
24 trademark, Ceriani®, identifying the Defendants as the seller.

25 4. Attached hereto as **Exhibit 2B** is a true and correct copy of pages from the Moto Italia  
26 /Cycle Performance active internet website as of July 2008. **Exhibit 2B** is a four (4) page  
27 document, the pages taken from the original as used in the State of California and throughout the  
28 country. It is noted that the website was changed from September 2007, and using a heading of



1 "Motomacchi". However, directly below that heading is the identification "*MOTO ITALIA ONLINE*  
 2 *CATALOG, 1060 Petaluma Blvd. North, Petaluma, CA USA 94952*". Below that identification is the  
 3 identification of "*CYCLE PERFORMANCE PRODUCTS*" as a co-seller on the site. The website and  
 4 copies made therefrom were made by my office in San Diego, California. Reference is made to the  
 5 second page of Exhibit 2B, showing the "Super Sprint", which is reached by clicking on "*CYCLE*  
 6 *PERFORMANCE PRODUCTS*" on the first page. One then clicks on CYCLE's "Parts Catalog",  
 7 which brings up page three of **Exhibit 2B**. On page three of **Exhibit 2B** is found an offer for sale  
 8 of a "*CERIANI Fork*" as Catalogue No. *CPP/2005-30*. It is presumed that the identifier "CPP"  
 9 stands for "*CYCLE PERFORMANCE PRODUCTS*". Additionally, pages 2 and 4 of **Exhibit 2B** carry  
 10 the copyright claims by MOTO ITALIA. **Exhibit 2B** shows solicitation of sale of products under the  
 11 Storz trademark, Ceriani®, identifying the Defendants as the seller.

12 5. Attached hereto as **Exhibit 3** is a true and correct copy of the 2000 Judgment entered  
 13 by the United States District, Honorable Jeffrey T. Miller, in Case No. 00 CV 0629 upholding  
 14 trademark validity, exclusive ownership by Storz, and entering permanent injunction in favor of  
 15 Storz on the Storz Ceriani® trademark.

16 6. Attached hereto as **Exhibit 4** is a true and correct copy of the 2003 Judgment entered  
 17 by the United States District, Honorable Irma E. Gonzales, in Case No. 01 CV 00218 upholding  
 18 trademark validity, exclusive ownership by Storz, and entering permanent injunction and monetary  
 19 damages of \$ 1,048,320.00 in favor of Storz for infringement of the Storz Ceriani® trademark.

20 7. Attached hereto as **Exhibit 5** is a copy of Plaintiff's Proposed Judgment for this  
 21 Honorable Court's consideration.

22 I declare, under penalty of perjury under the laws of the United States and of the State of  
 23 California, that the foregoing is true and correct to the best of my knowledge and belief. Executed  
 24 at San Diego, CA on July 21, 2008.

25  
 26   
 27 STELLE N. GILLASPEY  
 28

///

**EXHIBIT 1**

# The United States of America



## CERTIFICATE OF REGISTRATION

This is to certify that the records of the Patent and Trademark Office show that an application was filed in said Office for registration of the Mark shown herein, a copy of said Mark and pertinent data from the Application being annexed hereto and made a part hereof,

And there having been due compliance with the requirements of the law and with the regulations prescribed by the Commissioner of Patents and Trademarks,

Upon examination, it appeared that the applicant was entitled to have said Mark registered under the Trademark Act of 1946, as amended, and the said Mark has been duly registered this day in the Patent and Trademark Office on the

## PRINCIPAL REGISTER

to the registrant named herein.

This registration shall remain in force for TEN years unless sooner terminated as provided by law.



In Testimony whereof I have hereunto set my hand and caused the seal of the Patent and Trademark Office to be affixed this seventeenth day of October 1995.

*Bence Lehman*

Commissioner of Patents and Trademarks

Int. Cl.: 12

Prior U.S. Cls.: 19, 21, 23, 31, 35 and 44

United States Patent and Trademark Office

Reg. No. 1,927,816

Registered Oct. 17, 1995

TRADEMARK  
PRINCIPAL REGISTER

CERIANI

STORZ PERFORMANCE, INC. (CALIFORNIA  
CORPORATION)  
239 SOUTH OLIVE STREET  
VENTURA, CA 930012339

FIRST USE 5-13-1985; IN COMMERCE  
5-13-1985.

SEC. 2(F).

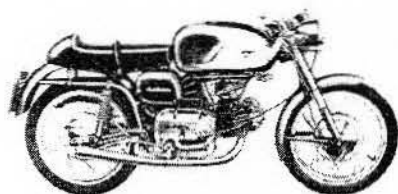
FOR: MOTORCYCLE SUSPENSION SYS-  
TEMS, IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35  
AND 44).

SER. NO. 74-575,410, FILED 9-19-1994.

ANDREW BAXLEY, EXAMINING ATTORNEY

**EXHIBIT 2A**





## Moto Italia

Aermacchi, Harley Davidson  
Lightweight New and Used  
Parts  
Specializing in Sprints



1060 Petaluma Blvd. North  
Petaluma, CA, USA 94952  
Phone or Fax 707/763-1982

Moto Italia has been in the Aermacchi/Harley-Davidson parts business since 1985. Our inventory consists of over 1/2 million dollars in new Aermacchi/Harley-Davidson parts and accessories. Our stock has grown from sources in the United States, England and Italy. A few of the highlights of Moto Italia's collection are a 1964 250cc CRTT Sprint, a 250cc Chimera, a "Dale's Harley Shop" 1975 SX-250 Desert Racer (prototype MX-250) and production version MX-250.

Throughout this site, you will find graphics of Aermacchi/Harley-Davidson motorcycles. Following are some of the areas to visit at Moto Italia. These areas will grow and change over time, so come back and visit.

- [Aermacchi History](#) giving insight into the different models and years.
- [Production Figures](#) for various Aermacchi/Harley-Davidson models
- [Online Catalog of Parts Books, Shop Manuals, Owners Manuals, Literature, Decals and other accessories.](#)  
Please contact Moto Italia directly for mechanical components.
- [Super Sprint Race Kits](#) transform your stock Sprint into a replica GP-350 racer for track or street.
- [Bracktree by Cycle Performance Parts](#) Alloy instruments, auto meter guages.
- [Roadtest Literature](#) a listing of copies of Italian motorcycle roadtest articles.
- [Bike of the Month](#) highlighting customers' Aermacchi/Harley-Davidsons
- [Ceriani 35mm Fork Manual](#) - posted to aid you with your Ceriani 35mm Road Racing Forks.
- [SS Dell'orto Carburetor Tech. Manual](#) - posted to aid you with your Series SS Dell'orto Sport/Racing Carburetors.

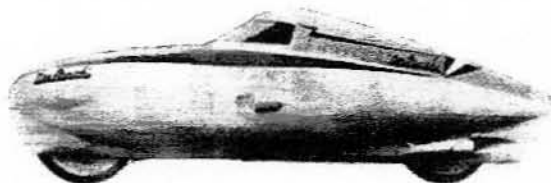
## Moto Italia's Hours

Monday to Friday 8am to 5:30pm

Saturday 9am to 2pm

Please call Moto Italia directly for all your  
Aermacchi/Harley-Davidson needs





© 1996-2007 Moto Italia. All rights reserved.  
Created by Robert D. Rice/The Digital Garage.



### Super Sprint

The legendary Sprint CRTT flat-single competition racers were born in 1961 when the Italian factory of Aermacchi entered into a financial relationship with Harley-Davidson of the USA, a union which led to the production of 250cc and 350cc racing motorcycles for A.M.A. lightweight competition.

Experience the Harley-Davidson Sprint competition Racer again and join the racing action in conjunction with A.H.R.M.A. and W.E.R.A. at such elite race tracks as Daytona and Mid Ohio. Based upon a kit developed by [John Basore](#) and a combination of available used parts from road going models, your replica road racer delivers all the performance and style of the original grand prix models.

**That's right, either purchase or sponsor, but most importantly get off the fence** and experience antique motorcycle road-racing utilizing the old Harley-Davidson Sprint. Definitely **"A Blast from the Past"!**

**Kits starting at \$4995 to a race ready chassis at \$5995.**

- [Super Sprint Race Kits Index](#)
- [Parts Catalog](#)
- [Photo Gallery](#)

© 1996-2007 [Moto Italia](#). All rights reserved.  
Created by Robert D. Rice/[The Digital Garage](#).

## Super Sprint Race Kits

### Aermacchi Road Race Kit & Optional Parts 2005 Racer Price List

Part Number	Description	Retail
CPP/1000	CYCLE '65 CRTT Chassis Kit (CPP/1001 thru CPP/1039)	4995.00
CPP/1001	Seat Tabs, Steel (4)	5.16
CPP/1002	Rear Seat Tabs, Steel (2)	5.42
CPP/1003	Front Fairing Mount Tabs, Steel (2)	4.44
CPP/1004	Front Fairing Mounts, Chrome Molly Tubing	88.67
CPP/1005	Side Fairing Mounts, Chrome Molly Tubing (2)	71.11
CPP/1006	Frame Braces, Chrome Molly Tubing (2)	48.89
CPP/1007	Rear Fuel Tank Mount, Chrome Molly Tubing	26.67
CPP/1008	Front Axle Speedo Drive Unit Spacer. Alloy	10.00
CPP/1009	Clip-On Spacers, Alloy 35mm to 30mm (2)	28.49
CPP/1010	Foot Set Spacers, Alloy (2)	9.57
CPP/1011	Fork Tube Preload Spacers, Alloy 30mm (2)	10.00
CPP/1012	MOTION PRO Throttle Cable Assembly	13.33
CPP/1013	Clutch or Brake Cable Assembly (2)	26.67
CPP/1014	MOROSO Petcock (2)	33.33
CPP/1015	LEAK PROOF Fork Seal Kit, 30mm	20.62
CPP/1016	ANW Offset Shift Lever, Alloy	62.22
CPP/1017	Exhaust Pipe & Hanger, ERS or Works Style	280.00
CPP/1018	Carburetor Air Horn, Alloy 30mm	42.96
CPP/1019	MAGURA Clip-Ons, Alloy 35mm	168.89
CPP/1020	Kill Button, Alloy	9.44
CPP/1021	Throttle & Grip	40.33
CPP/1022	Left Grip	6.48
CPP/1023	Right Lever Assembly, Alloy	32.04
CPP/1024	Left Lever Assembly, Alloy	29.22
CPP/1025	TAROZZI Alloy Rigid Rear Set Kit	130.82



CPP/1026	FCL Fairing, Poppy Red Fiberglass Two Piece Works Style	526.38
CPP/1027	Windscreen, Clear Plexiglas	78.12
CPP/1028	Fuel Tank & Gas Cap, Poppy Red Fiberglass	651.00
CPP/1029	Seat with Cover, Poppy Red Fiberglass	228.78
CPP/1030	Front Fender, Poppy Red Fiberglass	83.70
CPP/1031	AVON Vintage Front Racing Tire, AM20 90/90 H18	210.18
CPP/1032	AVON Vintage Rear Racing Tire, AM20 or AM22 110/80 H18	231.51
CPP/1033	MICHELIN Front or Rear Tube	30.22
CPP/1036	EXCEL Front Rim, Alloy Shouldered WM-2	234.44
CPP/1037	Rear Rim, Alloy Shouldered WM-3	252.09
CPP/1038	BUCHANAN Spoke Sets, Stainless Steel (2)	228.80
CPP/1039	PROGRESSIVE Rear Shock Set, 11"	314.60

### (Optional Parts & Accessories)

Part Number	Description	Retail
CPP/2000	<u>WISECO 74/74.5/75/75.5MM std. Forged Piston</u>	134.71
CPP/2004	<u>CYCLE '66 CRTT Frame, Chrome-molly W/Bearings, Mts &amp; Hdw.</u>	2667.00
<b>CPP/2005-30</b>	<b>CERIANI Fork</b> 30mm Fork Assy, 675mm (NOS or Rebuilt)	649.00
CPP/2005-35	<u>GCB 35mm Race Replica Fork 725mm length</u>	1295.00
CPP/2006	CYCLE <u>KRTT Style Seat</u> & Pad, White Fiberglass	166.67
CPP/2007-230	<u>GRIMECA Four Shoe Double Leading Front Brake Assy, 230mm</u>	742.40
CPP/2007-180	Four Shoe Single Leading Front Brake 180mm	495.00
CPP/2007-180F	H-D Full Width Double Leading Front Brake, 180mm (NOS or Rebuilt)	CALL
CPP/2007-180R	Full Width Single Leading Rear Brake, 180mm (NOS or Rebuilt)	CALL
CPP/2008	ANW Belly Pan, Alloy	131.85
CPP/2009	MOROSO Exhaust Pipe W/Muffler & Hanger, Works Style	331.85
CPP/2010	MAGURA Right Dual Pull Lever Assembly, Alloy	77.84
CPP/2011	MOTION PRO Rear Brake Cable Assembly	26.67
CPP/2012	DIAMOND ENGINEERING Polished Stainless Steel Hardware	CALL



CPP/2040	AUTO METER 10K Tachometer & Bracket Kit	303.64
CPP/2041	RJE Five Speed C/R Transmission Kit, Std. "Sprint"	CALL
CPP/2042	HANDY Front & Rear Wheel Stands	153.33
CPP/2043	SPROCKET SPECIALISTS 428 or 520 Sprockets	CALL
CPP/2044	EK 428 or 520 Racing Chain	CALL
CPP/2048	AERMACCHI T-Shirt M/L/XL	20.00
CPP/2049	Studio Photos, CRTT / CRS / ERS L & R 8.5" x 11"	10.00

(Prices subject to change without notice)

- [Race Kits Index](#)
- [Parts Catalog](#)
- [Photo Gallery](#)

© 1996-2007 Moto Italia. All rights reserved.  
Created by Robert D. Rice/[The Digital Garage](#).

**EXHIBIT 2B**



**Moto Italia**  
**Online Catalog**

1060 Petaluma Blvd. North, Petaluma, CA, USA 94952

Phone or Fax 707/763-1982

This catalog represents only a small portion of Moto Italia's stock and includes literature (price lists, parts books, owners manuals, shop manuals, road tests), decals, shirts, tires, accessories, and miscellaneous items. Since our stock of mechanical components is large and continually changing, it is not practical to include it online. Please contact Moto Italia directly for these and other inquiries.

**CYCLE PERFORMANCE PRODUCTS** for Auto Meter Pro-Cycle instrumentation

SALES TERMS

LITERATURE

DECALS AND PATCHES

SHIRTS

ACCESSORIES

MISCELLANEOUS

## **SALES TERMS**

**ORDERS:** Please state the year, model, color and the ID number ( found on the right side of the engine crankcase and the right side of the frame neck ). Most helpful are the original Harley-Davidson part numbers, or the original manufacturer's numbers such as Bosch, Dellorto, etc.

**TERMS:** Personal checks, money orders, Master Card, Visa, American Express or Discover preferred. COD shipments are possible, through either UPS or the Post Office. Residents of California need to include the state sales tax at their local county rate. Canadian and foreign orders need to be paid with an international postal money order in US dollars or via Charge Cards.

**STOCK:** Primarily NOS ( new old stock ) which may occasionally show scratches and spots of surface rust from long storage and moving. Most are in fine condition. Some are replacement parts made in the 1960's and others are new Italian manufactured parts. Moto Italia makes no warranty either expressed or implied. Used parts are cleaned and checked for serviceability. Engines and transmissions are sold as-is.





### Super Sprint

The legendary Sprint CRTT flat-single competition racers were born in 1961 when the Italian factory of Aermacchi entered into a financial relationship with Harley-Davidson of the USA, a union which led to the production of 250cc and 350cc racing motorcycles for A.M.A. lightweight competition.

Experience the Harley-Davidson Sprint competition Racer again and join the racing action in conjunction with A.H.R.M.A. and W.E.R.A. at such elite race tracks as Daytona and Mid Ohio. Based upon a kit developed by **John Basore** and a combination of available used parts from road going models, your replica road racer delivers all the performance and style of the original grand prix models.

**That's right, either purchase or sponsor, but most importantly get off the fence and experience antique motorcycle road-racing utilizing the old Harley-Davidson Sprint. Definitely "A Blast from the Past"!**

**Kits starting at \$4995 to a race ready chassis at \$5995.**

- Super Sprint Race Kits Index
- **Parts Catalog**
- Photo Gallery

© 1996-2007 **Moto Italia**. All rights reserved.  
Created by Robert D. Rice/The Digital Garage.



CPP/1031	AVON Vintage Front Racing Tire, AM20 90/90 H18	234.00
CPP/1032	AVON Vintage Rear Racing Tire AM22 110/80 H18	257.00
CPP/1033	MICHELIN Front or Rear Tubes (2)	33.00
CPP/1036	EXCEL Front Rim, Alloy Shouldered WM-2	260.00
CPP/1037	Rear Rim, Alloy Shouldered WM-3	280.00
CPP/1038	BUCHANAN Spoke & Nipple Sets, Stainless Steel (2)	254.00
CPP/1039	PROGRESSIVE Rear Shock Set, 11"	CALL
CPP/1040-STD	CYCLE Chassis W/Std Frame, 30mm Forks & Std Ft. Brake	4995.00
CPP/1040-180	Chassis W/Std Frame, 300mm Forks & 180mm Ft Brake	5495.00
CPP/1040-230	Chassis W/Super Sprint Frame, 35mm Forks & 230mm Ft Brake	8995.00
CPP/1041-246	246cc Racing Motor Assy. 66mm X 72mm (Wet Clutch)	4995.00
CPP/1041-248	248cc Racing Motor Assy. 72mm X 61mm (Dry Clutch)	6995.00
CPP/1041-344	344cc Racing Motor Assy. 74mm X 80mm (Dry Clutch)	7995.00
CPP/1041-402	402cc Racing Motor Assy. 80mm X 80mm (Dry Clutch)	8995.00
CPP/2000	WISECO 74/74.5/75/75.5MM std. Forged Piston Assy.	149.00
CPP/2004	CYCLE Super Sprint Frame, Chrome Moly W/Alloy Mts & S/S Hdwe.	2963.00
CPP/2004-R	CYCLE Super Sprint Frame, Round Rear Fork Kit, steel	295.00
CPP/2005-30	CERIANI Fork 30mm Fork Assy, 675mm or 725mm (NOS or Rebuilt)	550.00
CPP/2005-35	GCB 35mm Racing Fork Assy, 675mm or 725mm	1561.00
CPP/2005-LPS	LEAK PROOF Fork Seal Kit, 30mm or 35mm	23.00
CPP/2006	CYCLE KRTT Style Seat & Pad, White Fiberglass	208.00
CPP/2007-230	GRIMECA Four Shoe Double Leading Front Brake Assy, 230mm	1034.00
CPP/2007-180	GRIMECA Four Shoe Single Leading Front Brake Assy, 180mm	673.00
CPP/2007-180F	H-D Full Width Double Leading Front Brake, 180mm (Rebuilt)	295.00
CPP/2007-180R	H-D Full Width Single Leading Rear Brake, 180mm (Rebuilt)	195.00
CPP/2009	MOROSO Exhaust Pipe W/Muffler & Hanger, Works Style	369.00
CPP/2010	MAGURA Right Dual Pull Lever Assembly, Alloy	86.00
CPP/2011	MOTION PRO Rear Brake Cable Assembly	30.00

CPP/2012	DIAMOND ENGINEERING Polished Stainless Steel Hardware	CALL
CPP/2040	AUTO METER 10K Tachometer & Bracket Kit (8/10/14K)	337.00
CPP/2041	RJE Five Speed C/R Trans Gear Set, '73/'74. "Sprint"	CALL
CPP/2042	HANDY Front & Rear Wheel Stands	170.00
CPP/2043	SPROCKET SPECIALISTS 428 or 520 Sprockets	CALL
CPP/2044	EK 428 or 520 Racing Chain	CALL
CPP/2049	CRTT / CRS / ERS L&R Studio Photos, 8.5" X 11" (12)	60.00
CPP/2050	MORRIS MLR 40W Castor Racing Oil, 1 Litre Bottle	20.00

(Prices subject to change without notice)

- [Race Kits Index](#)
- [Parts Catalog](#)
- [Photo Gallery](#)

© 1996-2007 Moto Italia. All rights reserved.  
Created by Robert D. Rice/[The Digital Garage](#).

**EXHIBIT 3**

00 DEC -4 AM 9:57

BY: *Shaw*

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

STORZ PERFORMANCE, INC., a California  
corporation,

Plaintiff,

v.

CHROME SPECIALITIES, INC., and DOES 1  
to 100, inclusive,

Defendants.

CASE NO. 00 CV 0629 JTM (CGA)

FINDINGS OF THE COURT; ENTRY OF  
CONSENT JUDGMENT; AND PERMANENT  
INJUNCTION

*Honorable Jeffrey Miller*  
*Honorable Cynthia G. Aaron*

ORIGINAL

ENTERED ON 12/4/00

FINDINGS OF THE COURT; ENTRY OF CONSENT JUDGMENT;  
AND PERMANENT INJUNCTION

00 CV 0629 JTM (CGA)



**FINDINGS OF THE COURT**

1. Plaintiff Storz Performance, Inc. [hereinafter "Storz"] is the owner of United States Trademark Registration Number 1,927,816 for the mark Ceriani®;

2. United States Trademark Registration Number 1,927,816 for the trademark "Ceriani" is valid;

3. Defendant Chrome Specialties, Inc., by its use of the Storz trademark "Ceriani," which use was unconsented to by Storz, infringed the Storz registered trademark, "Ceriani," and

4. Defendant Chrome Specialties' unauthorized use of the Storz trademark constituted unfair competition within the meaning of California law and the Common Law

**CONSENT JUDGMENT AND INJUNCTION**

In accord with the above findings of the Court, Judgment is hereby entered in favor of Storz and against Chrome Specialties as follows:

1. As to the First Claim for Relief, Trademark Infringement of the Registered Trademark Ceriani®, U.S. Registration Number 1,927,816: Plaintiff's trademark Ceriani® is found valid, and said trademark was infringed by Chrome Specialties as pled;

2. As to the Second Claim for Relief, Lanham Act, § 43: Plaintiff's trademark Ceriani® is found valid, and said trademark was infringed by Chrome Specialties as pled;

3. As to the Third and Fourth Claims for Relief, Unfair Competition: Chrome Specialties' use of the Ceriani® trademark constituted unfair competition as pled;

4. As to the Fifth Claim for Relief, Accounting: Plaintiff Storz would be entitled to an accounting from Chrome Specialties absent any other agreement between the parties;

5. Chrome Specialties, and all of its employees and agents, or any person or entity acting in concert with Chrome Specialties, are hereby permanently enjoined and restrained from:

- [a] using the Storz Trademark Ceriani® or, without limitation, any reproduction, duplicate, copy, or colorable imitation thereof, in whole or part, on any, without limitation, goods, packaging, advertisements, solicitations for sale, offers for sale, or at all;

- [b] otherwise distributing or causing to be distributed any product utilizing the Storz Trademark, Ceriani®; and,
- [c] permitting or engaging in the import or export of any product utilizing the Storz Trademark, Ceriani® without express authorization from the lawful owner of the mark.

6. Plaintiff Storz is entitled to damages and pre-judgment interest in an amount to be determined by agreement between the parties;

7. Plaintiff Storz is entitled to its costs incurred in the prosecution of this case in an amount to be determined by agreement between the parties; and

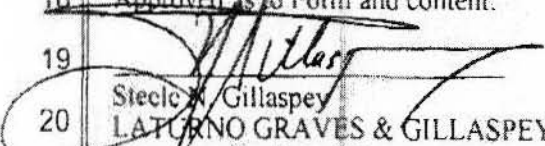
8. Plaintiff Storz is entitled to its reasonable attorneys' fees incurred in the prosecution of this case in an amount to be determined by agreement between the parties. Plaintiff Storz will also be entitled to its reasonable fees and costs incurred in any future proceeding which is required because of a violation of the above permanent injunction.

**IT IS SO ORDERED.**

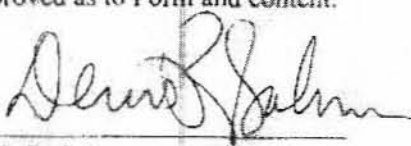
ENTERED: 12/1/08

  
United States District Court Judge

Approved as to Form and content:

  
Steele N. Gillaspey  
LATURNO GRAVES & GILLASPEY, APC  
Attorneys for Plaintiff,  
STORZ PERFORMANCE, INC.

Approved as to Form and content:

  
Denis R. Salmon  
GIBSON, DUNN & CRUTCHER LLP  
Attorneys for Defendant  
CHROME SPECIALTIES, INC.

45016720\_1.DOC

**EXHIBIT 4**



FILED

03 MAR 13 AM 8:55

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIF.

BY  DEPUTY

IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA

STORZ PERFORMANCE, INC.,  
a California corporation,

Plaintiff,

vs.

TRANSWORLD WAREHOUSE  
SERVICE dba TWS-USA, INC.,  
WIND TRADING NORTH  
AMERICA, INC.,  
GIANDOMENICO BONI aka  
JOHN BONI, an individual,  
WIND TRADING, SRL,  
and DOES 1 to 100, Inclusive,

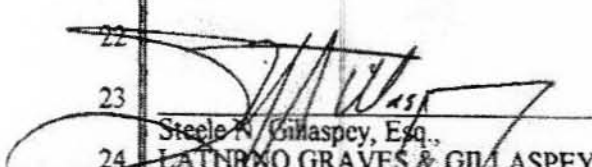
Defendants.

Case No. 01-CV-00218 IEG [JFS]

JUDGMENT

Honorable Irma E. Gonzales  
Honorable J. F. Stevens

Presented By:

  
Steele N. Gillaspey, Esq.,  
LATIBNO GRAVES & GILLASPEY  
225 Broadway, Suite 1530  
San Diego, California 92101  
Telephone: 619.234.3323  
Facsimile: 619.234.1331  
Attorney for Plaintiff,  
STORZ PERFORMANCE, INC.

ENTERED ON 3/13/03

Storz Performance v TWS, et al.

JUDGMENT 01CV218IEG

44

1 In accordance with the records of this case, the evidence presented, inclusive of establishment  
2 of undisputed facts by the parties during pre-trial conferences, the Court issues the following:

3 **FINDINGS OF FACT**

4 1. Plaintiff Storz Performance, Inc. ("Storz") is the owner of the incontestable  
5 trademark, and the trade dress, related to motorcycle forks and suspension systems solicited and sold  
6 under the name trademark "CERIANI" (Reference is made to pre-trial rulings of the Court);

7 2. The Storz mark and dress are inherently distinctive and identify Storz in the  
8 motorcycle fork and suspension system market;

9 3. Storz' trademark and dress are valid, and are further supported by the issuance of  
10 United States Registration No. 1,927,816, inclusive of grant of incontestable status by the U.S.  
11 Trademark Office, and by the issuance of related design and utility patents issued by the U.S. Patent  
12 Office with respect to motorcycle forks and suspension systems (U.S. D417,416 - Storz/Ceriani; U.S.  
13 6,082,479) ("the Storz intellectual property");

14 5. Defendant Giandomenico Boni aka John Boni ("Boni") is an individual and a  
15 controlling owner of Defendant Wind Trading SRL, ("Wind") which in turn owns and/or controls  
16 Defendant Transworld Warehouse Service dba TWS-USA, Inc. ("TWS");

17 6. TWS is part of TWS World Wide, which is also affiliated with WIND. TWS World  
18 Wide also does business as TWS Tech, TWS Central Europe, TWS Brazil, TWS Spain, and TWS  
19 GB (Great Britain) ("TWS");

20 7. Boni, Wind and TWS further do business under the names of and/or control such  
21 entities known as Wind Racing, Wind Raceware, WRP, W2 Boots, and Wind Trading Magazine.  
22 Boni and Wind also did business and controlled Wind Trading North America, Inc.;

23 8. Boni, individually, and in concert with other persons and entities, solicited and sold  
24 motorcycle forks and suspension systems using the Storz intellectual property, including the Ceriani  
25 mark. Boni, and others, intentionally induced Wind, TWS and the related companies, above, to  
26 solicit, sell and infringe the Storz intellectual properties. Boni, Wind, TWS and the related persons  
27 and entities intentionally infringed the Storz intellectual properties;

28

9. Jurisdiction and venue as to all Defendants, including related entities, is proper.

10. Based upon the admissible evidence, the Court finds that Defendants' average selling price per infringing item was \$ 1,400.00 per unit. Reference is made to Defendants' invoices to their identified clients (attorney eyes only documents);

11. Based upon admissible evidence, Court finds that Defendants sold 2,496 units which infringed. Reference is made to Defendants' invoices to their identified clients (attorney eyes only documents);

12. Based upon admissible evidence, the Court finds that Defendants' gross profit percentage earned through intentional infringement was thirty percent (30%) of sales.

### JUDGMENT

1. The Injunction as previously issued is confirmed as permanent as to all the Storz intellectual properties as to Boni, Wind, TWS and all related or affiliated entities or business identities which may include, but not necessarily limited to:

(A) TWS Tech, TWS Central Europe, TWS Brazil, TWS Spain, TWS GB (Great Britain), Wind Racing, Wind Raceware, WRP, W2 Boots, Wind Trading Magazine, Wind Trading North America, and,

(B) all persons and entities acting concert with any of them;

The Court retains jurisdiction over all issues, persons and entities with respect to the Injunction.

2. Judgment is entered in favor of Storz Performance, Inc. on all claims and against Boni, Wind, and TWS, inclusive of the related entities, and each of them, inclusive of affirmative defenses;

3. Monetary judgment in the amount of \$ 1,048,320.00 is entered in favor of Plaintiff, STORZ PERFORMANCE, INC., to carry interest at the legal rate of ten percent (10%) from date of entry forward until satisfied. Judgment is entered jointly and severally as to Boni, Wind, and TWS, inclusive of the related entities, and each of them; and,

///

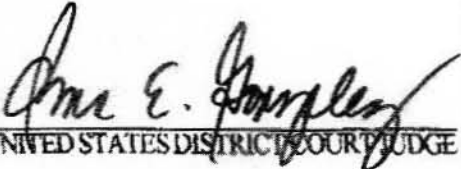
///




1           4.     Plaintiff STORZ PERFORMANCE, INC., in addition to the damages awarded in Item  
2     3, hereinabove, is entitled to an additional award of its fees and costs incurred herein as to Boni,  
3     Wind, and TWS, inclusive of the related entities, and each of them, jointly and severally.

4     ENTERED:

5                     3/12/03

6                       
7                     UNITED STATES DISTRICT COURT JUDGE

8  
9  
10    APPROVED AS TO FORM & CONTENT:

11  
12                       
13                     \_\_\_\_\_  
14                     MICHAEL DOLAND, ESQ.  
15                     Attorney for Defendants

**EXHIBIT 5**

1  
2  
3  
4  
5  
6  
7  
8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 STORZ PERFORMANCE, INC., )  
11 a California corporation, )

12 Plaintiff, )

13 vs. )

14 MOTO ITALIA, form unknown; )  
15 LESLIE BULL, an individual; )  
16 CYCLE PERFORMANCE )  
17 PRODUCTS, INC.; JOHN BASORE, )  
18 an individual, and, DOES 1 to 100, )  
19 Inclusive, )

20 Defendants. )  
21 )  
22 )  
23 )  
24 )  
25 )  
26 )  
27 )  
28 )

Case No. 3:07-CV-02242 W (WMC)

[PROPOSED]

**JUDGMENT**

Submitted by:

24 Steele N. Gillaspey, Esq.  
25 GILLASPEY & GILLASPEY  
26 619 234 3700

Honorable Thomas J. Whelan  
United States District Court Judge

Honorable William McCurine, Jr.  
United States Magistrate Judge



1 In accordance with the records of this case and the evidence presented, the Court orders and  
2 adjudges as follows:

3 **FINDINGS OF FACT**

4 1. Plaintiff STORZ PERFORMANCE, INC. ("STORZ") is the owner of the incontestable  
5 trademark, and the trade dress, related to motorcycle forks and suspension systems solicited and sold  
6 under the name trademark "CERIANI®";

7 2. The STORZ mark and dress are inherently distinctive and identify Storz in the  
8 motorcycle fork, suspension system, and related products market;

9 3. STORZ' trademark and dress are valid, and are further supported by the issuance of  
10 United States Registration No. 1,927,816, inclusive of grant of incontestable status by the U.S.  
11 Trademark Office, and by the issuance of related design and utility patents issued by the U.S. Patent  
12 Office with respect to motorcycle forks and suspension systems (U.S. D417,416 - Storz Ceriani®;  
13 U.S.13 6,082,479) ("the Storz intellectual property"). By the same facts, STORZ is the exclusive  
14 owner the Storz intellectual property. The facts herein are further established by prior judgments  
15 entered by the U.S. District Courts in favor of STORZ on the issues of validity, ownership and  
16 infringement.

17 4. Defendant MOTO ITALIA, a company, engaged in the solicitation for sale and  
18 believed sales of motorcycle forks, suspension systems, and related products counterfeiting the  
19 STORZ Ceriani® trademark nationally and within the State of California and this District, inclusive  
20 of by active internet/website activity in this District. Defendant engaged in such counterfeiting  
21 despite actual notice and knowledge of the long term STORZ rights. Defendant deliberately and  
22 intentionally infringed the STORZ trademark, Ceriani®. Defendant failed to respond or otherwise  
23 defend against the claims of STORZ. The Defendant acted in an exceptionally grievous manner in  
24 Defendant's counterfeiting, such to make the Defendant's counterfeiting infringement exceptional  
25 under, *inter alia*, 15 USC § 1117.

26 5. Defendant LESLIE BULL, an individual, individually engaged in, and caused co-  
27 Defendant Moto Italia to engage in, the solicitation for sale and believed sales of motorcycle forks,  
28 suspension systems, and related products counterfeiting the STORZ Ceriani® trademark nationally

1 and within the State of California and this District, inclusive of by active internet/website activity  
2 in this District. Defendant engaged in such counterfeiting despite actual notice and knowledge of  
3 the long term Storz rights. Defendant deliberately and intentionally infringed the STORZ trademark,  
4 Ceriani®. Defendant failed to respond or otherwise defend against the claims of STORZ. The  
5 Defendant acted in an exceptionally grievous manner in Defendant's counterfeiting, such to make  
6 the Defendant's counterfeiting infringement exceptional under, *inter alia*, 15 USC § 1117.

7 6. Defendant CYCLE PERFORMANCE PRODUCTS, INC., engaged in the solicitation  
8 for sale and believed sales of motorcycle forks, suspension systems, and related products  
9 counterfeiting the STORZ Ceriani® trademark nationally and within the State of California and this  
10 District, inclusive of by active internet/website activity in this District, namely the Moto Italia site.  
11 Defendant engaged in such counterfeiting despite actual notice and knowledge of the long term  
12 STORZ rights. Defendant deliberately and intentionally infringed the STORZ trademark, Ceriani®.  
13 Defendant failed to respond or otherwise defend against the claims of Storz. The Defendant acted  
14 in an exceptionally grievous manner in Defendant's counterfeiting, such to make the Defendant's  
15 counterfeiting infringement exceptional under, *inter alia*, 15 USC § 1117.

16 7. Defendant JOHN BASORE, an individual, individually engaged in, and caused co-  
17 Defendant Cycle Performance Products, Inc. to engage in, the solicitation for sale and believed sales  
18 of motorcycle forks, suspension systems, and related products counterfeiting the STORZ Ceriani®  
19 trademark nationally and within the State of California and this District, inclusive of by active  
20 internet/website activity in this District. Defendant engaged in such counterfeiting despite actual  
21 notice and knowledge of the long term STORZ rights. Defendant deliberately and intentionally  
22 infringed the STORZ trademark, Ceriani®. Defendant failed to respond or otherwise defend against  
23 the claims of STORZ. The Defendant acted in an exceptionally grievous manner in Defendant's  
24 counterfeiting, such to make the Defendant's counterfeiting infringement exceptional under, *inter*  
25 *alia*, 15 USC § 1117.

26 8. The evidence establishes that Defendants MOTO ITALIA, LESLIE BULL, CYCLE  
27 PERFORMANCE PRODUCTS, INC., and JOHN BASORE, jointly and severally continue to  
28 counterfeit the Storz intellectual property by, *inter alia*, engaging in the solicitation for sale and



1 believed sales of motorcycle forks, suspension systems, and related products counterfeiting the  
2 STORZ Ceriani® trademark nationally and within the State of California and this District, inclusive  
3 of by active internet/website activity in this District.

4 9. Jurisdiction and venue as to all Defendants is proper.

### 5 JUDGMENT

6 1. Judgement on the Complaint and all causes of action is hereby and herewith entered  
7 in favor of Plaintiff STORZ PERFORMANCE, INC., and against Defendants MOTO ITALIA, LESLIE  
8 BULL, CYCLE PERFORMANCE PRODUCTS, INC., and JOHN BASORE, jointly and severally;

9 2. A Permanent Injunction is hereby and herewith entered permanently enjoining and  
10 prohibiting Defendants MOTO ITALIA, LESLIE BULL, CYCLE PERFORMANCE PRODUCTS, INC.,  
11 and JOHN BASORE, jointly and severally, and all persons and/or entities acting in concert with said  
12 Defendants from any use, in any form or manner or medium, of the STORZ PERFORMANCE, INC.  
13 intellectual property, specifically the STORZ PERFORMANCE, INC. trademark, Ceriani®;

14 3. Defendants MOTO ITALIA, LESLIE BULL, CYCLE PERFORMANCE PRODUCTS,  
15 INC., and JOHN BASORE, jointly and severally, and all persons and/or entities acting in concert with  
16 said Defendants shall deliver up for destruction any and all, without limitation, products, packaging,  
17 labels bearing the name "Ceriani" in whole or part, or, alternatively, shall remove and destroy any  
18 "Ceriani" (in whole or part) labeling placed upon the product, rather than destroy the product, and  
19 Defendants shall provide sworn proof of such destruction within 60 days of the date of this  
20 Judgment;

21 4. Defendants MOTO ITALIA, LESLIE BULL, CYCLE PERFORMANCE PRODUCTS,  
22 INC., and JOHN BASORE, jointly and severally, and all persons and/or entities acting in concert with  
23 said Defendants are ordered to provide a complete and full accounting and report to STORZ  
24 PERFORMANCE, INC. of all sales of products sold under, in whole or part, the "Ceriani" name, to  
25 include the client name, address and telephone number, copies of the invoices/purchase orders; all  
26 documents related to any cost claim inclusive of any, without limitation, supplier, dealer or importer  
27 charges (and the identification of each such supplier, dealer or importer by name, address, and  
28 telephone number and copies of invoices by same; and including any electronic data such as



1 QuickBooks® or other such software, and including any ledger or other evidence/documents related  
2 to accounting therefor within 60 days of the entry of this Judgment;

3 5. Defendants MOTO ITALIA, LESLIE BULL, CYCLE PERFORMANCE PRODUCTS,  
4 INC., and JOHN BASORE, jointly and severally, and all persons and/or entities acting in concert with  
5 said Defendants are ordered to notify in writing each person or entity to whom product was sold  
6 using, in whole or part, the name "Ceriani" that such product is counterfeit and not the product of  
7 STORZ PERFORMANCE, INC., and Defendants shall provide copies and proof of mailing to STORZ  
8 PERFORMANCE, INC. within 60 days of the entry of this Judgment.

9 6. The Court retains jurisdiction as to all matters relevant to ¶¶ 1 through 5, hereinabove,  
10 and with respect to the issues of damages, inclusive of statutory damages, attorneys fees under, *inter*  
11 *alia*, Fed.R.Civ.P., 15 USC § 1117, and costs.

12 **IT IS SO ORDERED AND ADJUDGED**

13 ENTERED:

14  
15  
16 \_\_\_\_\_  
17 HONORABLE THOMAS J. WHELAN,  
18 United States District Court Judge,  
19 Judge Presiding  
20

21 cc: Honorable William McCurine, Jr.  
22 United States Magistrate Judge  
23  
24  
25  
26  
27  
28